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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA
20 SAN FRANCISCO DIVISION

21 FACEBOOK, INC. and INSTAGRAM LLC, 22 23 24 25 26 27 28	21 Misc. Case No. 3:21-mc-80192 22 23 24 25 26 27 28
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13 Petitioners,
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15 v.
16 HOULIHAN LOKEY, INC.,
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18 Respondent.
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[Underlying Action: Voxer, Inc. and Voxer IP LLC v. Facebook, Inc. and Instagram LLC, United States District Court for the Western District of Texas, Case No. 1:20-cv-00655 [ADA]]

MOTION TO SHORTEN BRIEFING TIME FOR RESPONDENT HOULIHAN LOKEY, INC.'S OPPOSITION TO PETITIONERS' MOTION TO COMPEL COMPLIANCE WITH SUBPOENA

1 Pursuant to Civil Local Rule 6-3, Petitioners Facebook, Inc, and Instagram LLC
 2 (hereinafter “Petitioners”), hereby move this Court for an order shortening Respondent Houlihan
 3 Lokey, Inc.’s time to oppose Petitioners’ concurrently filed Motion to Compel Compliance with
 4 Subpoena. Specifically, Petitioners request that Houlihan Lokey, Inc. be ordered to respond to
 5 Petitioners’ Motion to Compel by August 20, 2021, which is five (5) business days following the
 6 filing of Petitioners’ Motion to Compel. In support of their Motion, Petitioners attach the
 7 Declaration of Paven Malhotra (“Malhotra Decl.”) and state as follows:

8 1. The documents subject to Petitioners’ Motion to Compel concern, *inter alia*, the
 9 value of patents being asserted against Petitioners in ongoing litigation in the United States
 10 District Court for the Western District of Texas in the matter *Voxer, Inc. and Voxer IP LLC v.*
 11 *Facebook, Inc. and Instagram LLC*, Case No. 1:20-cv-00655 (the “Texas Action”). Respondent
 12 Houlihan Lokey was hired by Voxer, Inc. (a plaintiff in the Texas action) to assist in entering into
 13 financial transactions involving the company and its intellectual property assets. In response to a
 14 document subpoena served by Petitioners, ***Houlihan Lokey redacted or withheld entirely 624***
 15 ***documents that concern its efforts to sell Voxer and/or its patents.*** The documents subject to
 16 Petitioners’ Motion to Compel are essential to Petitioners’ preparation of their rebuttal damages
 17 expert report in the Texas Action, which is currently due on September 16, 2021. Malhotra Decl.
 18 ¶¶ 3, 5.

19 2. Given the limited time remaining before rebuttal expert reports are due, Petitioners
 20 seek a shortened briefing schedule in order to resolve disputes over the privilege assertions
 21 Respondent is interposing in order to withhold portions of or all of hundreds of responsive
 22 documents. Petitioners also anticipate requiring a deposition of Respondent once the documents
 23 are produced.

24 3. Petitioners have worked diligently to obtain production of documents but were
 25 prejudiced by Respondents’ undue delay. Petitioners served their document and deposition
 26 subpoenas on Houlihan Lokey on June 3, 2021. ***Houlihan Lokey initially made no objections to***
 27 ***Petitioners’ subpoena and represented that it would make its document production by July 1,***
 28 ***2021. However, no production was made on that date. Instead, on July 8, 2021 Houlihan Lokey***

1 *served, for the first time, untimely objections and then served documents productions on July*
 2 *16 and on July 30, 2021. Id. ¶ 5.*

3 4. Given Respondents' belated objections, Respondents repeatedly requested
 4 Houlihan Lokey serve a privilege log for any documents that it was withholding on privilege
 5 grounds. ***But Houlihan Lokey waited until July 30, 2021 to serve any privilege log.*** The
 6 privilege log served that day included 624 entries. *Id.*

7 5. In compliance with L.R. 37-1(a), Petitioners then sought promptly to meet and
 8 confer concerning Houlihan Lokey's privilege assertions. That meet and confer occurred on
 9 August 5, 2021 followed by subsequent discussion between counsel via email. Houlihan Lokey
 10 refused to withdraw its privilege assertions. *Id.* ¶ 6.

11 6. Absent a shortened briefing schedule, the earliest Petitioners' underlying Motion
 12 to Compel could be heard would be the first available hearing date after September 17, 2021,
 13 which is after Petitioners' rebuttal damages report is due.

14 7. Petitioners requested that Houlihan Lokey stipulate to a shortened briefing
 15 schedule, but Respondents never responded to this request. *Id.* ¶ 8.

16 8. For the foregoing reasons, Petitioners request that this Court grant their Motion for
 17 an Order Shortening Briefing Time for Houlihan Lokey, Inc.'s opposition to Petitioners' Motion
 18 to Compel Compliance with Subpoena. Respondent Houlihan Lokey, Inc. should be ordered to
 19 respond by August 20, 2021.

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 21 Dated: August 13, 2021

KEKER, VAN NEST & PETERS LLP

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 23 By: /s/ Paven Malhotra

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